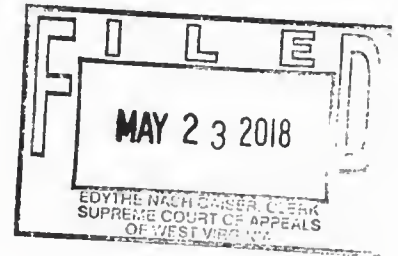


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**IN THE WEST VIRGINIA SUPREME COURT OF APPEALS**

**Dale W. Steager,  
West Virginia State Tax Commissioner, and  
David Sponaule,  
Assessor of Doddridge County  
Respondents Below, Petitioners,**



**vs.**

**No. 18-0125**

**Antero Resources Corporation,  
Petitioner Below, Respondent**

---

**AMICUS CURIAE BRIEF ON BEHALF OF  
THE WEST VIRGINIA ASSOCIATION OF COUNTY OFFICIALS, INC.**

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**I. INTRODUCTION<sup>1</sup>**

Your Amicus West Virginia Association Of County Officials, Inc. (hereinafter WVACO) generally supports the position of the Petitioners West Virginia State Tax Commissioner and the Assessor of Doddridge County as presented in the Notice of Appeal filed with the Court.

**II. KIND OF PROCEEDING AND NATURE OF THE RULING BELOW**

As to the subject January 17, 2018, Order of the Doddridge County Circuit Court, Business Division, styled

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<sup>1</sup>This is to indicate, in conformity with the provisions of Rule 30(e)(5), that no counsel for a party to this appeal authored this brief in whole or in part, that no such counsel or a party made a monetary contribution specifically intended to fund the preparation or submission of this brief, and that no person other than the amicus curiae, its members, or its counsel made such a monetary contribution.

**IN THE WEST VIRGINIA SUPREME COURT OF APPEALS**

**Dale W. Steager,  
West Virginia State Tax Commissioner, and  
David Sponaugle,  
Assessor of Doddridge County  
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**vs.**

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**Antero Resources Corporation,  
Petitioner Below, Respondent**

---

**AMICUS CURIAE BRIEF ON BEHALF OF  
THE WEST VIRGINIA ASSOCIATION OF COUNTY OFFICIALS, INC.**

**SUPPORTING THE PETITIONERS AND REVERSAL**

---

**Jack C. McClung (WVSB No. 2403)  
Attorney At Law  
2026 Kanawha Boulevard, East  
Charleston, WV 25311  
Telephone: (304) 346-0591  
Email: [jackmc@wvaco.org](mailto:jackmc@wvaco.org)**

**Counsel for Amicus West Virginia  
Association Of County Officials, Inc.**

ORDER REVERSING THE DECISIONS OF THE DODDRIDGE COUNTY BOARD OF EQUALIZATION AND REVIEW AND THE DODDRIDGE COUNTY BOARD OF ASSESSMENT APPEALS UPHOLDING THE VALUATION OF ANTERO'S GAS WELLS FOR THE 2016 AND 2017 TAX YEARS,

WVACO adopts the description of the kind of proceeding and nature of the ruling below of the as stated in Paragraph 16 of the Petitioners' Notice of Appeal filed with the Court on February 15, 2018.

**III. FACTS**

WVACO adopts the statement of facts as stated in the Petitioners' Notice of Appeal filed with the Court.

**IV. RESPONSE TO ASSIGNMENT OF ERRORS**

WVACO adopts and supports the Assignments of Error as stated in Paragraph 17 of the Petitioners' Notice of Appeal filed with the Court.

**V. STANDARD OF REVIEW**

This case presents questions of statutory interpretation and application, and a determination of constitutionality, all of which are reviewed de novo.

**VI. ARGUMENT**

- A. The loss in revenue to county governments in West Virginia that would result from the upholding of the Antero decision would have significant, or even severe, negative financial impact on many counties of the State.

The issue presented to the Court by this appeal is of utmost importance to county governments of the State is the significant, or even severe, negative financial impact that would be felt by many counties of the State by loss of gas well property tax monies they presently receive as

well as what they may have to pay back in the form of refunds to gas well companies if the Respondent Antero Resources Corporation were to prevail in this matter.

The current impact of such property tax revenues on the counties of the State is illustrated by an April 12, 2018, letter from Jeff Amburgey, Director of the Property Tax Division of the West Virginia State Tax Department, to the Assessors of the State that discussed the potential impact on tax revenue of the case under appeal. That said letter is filed herewith as Exhibit A.

The said letter, at page 2, states that “[w]hile the Department has not determined the exact amount of exposure . . .” from the effect of the litigation on tax revenues, . . . it is estimated that the tax dollars at issue would be approximately 50% of the producing oil and gas property taxes in some counties.” An attachment to the letter filed herewith as Exhibit A displays the estimated tax revenue for each West Virginia county from “Producing Oil & Gas Taxes Tax Year 2017.”

In response to an inquiry from WVACO, certain affected counties provided communications describing the effect of such decreases in tax revenue on those counties. Selected excerpts from each such response are noted below, with selected communications attached as an exhibit to this brief.

**1. Brooke County**

Estimated 2017 gas/oil property tax revenue (from Exhibit A): **\$2,406,962**

April 30, 2018 email from Thomas Oughton, Brooke County Assessor

**Selected Excerpts from the April 30, 2018, Brooke County email**

The county commission indicated that the anticipated reduction in tax revenues that would result from the change in appraised value of oil and gas wells will affect the capital improvements to the courthouse.

## **2. Harrison County**

Estimated 2017 gas/oil property tax revenue (from Exhibit A): **\$8,664,680**

April 30, 2018 email from William A. Parker, Harrison County Administrator

### **Selected Excerpts from the April 30, 2018, Harrison County email**

The email noted that the majority of funding loss would impact the Board of Education and even “[i]f the state (Big IF) finds a way to cover the reduction in local share via the school aid formula, school systems could still see a reduction on any levy funds.”

The reduction in oil and gas tax revenues

would require that the Harrison County Commission increase the tax burden on residential taxpayers - - senior citizens, etc., and/or cancel capital projections or eliminate services. Due to the ever increasing court case-loads and the increasing safety or security concerns, Harrison County is in the planning stage for a judicial annex. This project may have to be cancelled if the ruling stands. Harrison County would experience a reduction in funding for our Vital Service levy funds going to agencies such as: Harrison County Emergency Medical Services, Harrison County Senior Service Center Programs, Medical Health Service United Summit Center, Education Enrichment Programs, Harrison County Parks and Recreation Department, Nutritional Programs for Seniors via Bi-County Programs and other important services.

## **3. McDowell County**

Estimated 2017 gas/oil property tax revenue (from Exhibit A): **\$2,038,400**

May 4, 2018, letter from Michael D. Brooks, Commissioner, McDowell County Commission filed as Exhibit B to this brief.

### **Selected Excerpts from the May 4, 2018, McDowell County letter**

McDowell County estimated in its letter that if the court ruling at issue “. . . is allowed to stand, McDowell County would lose in excess of one million dollars each year.” The letter notes



that McDowell County “. . . is one of the most economically depressed counties in the state, and the nation as a whole, and has been declared by the Appalachian Regional Commission as a distressed county for several years running.” The letter notes other losses in tax revenue being experienced by the county and describes the spending freeze, staff reductions in “virtually every office, including law enforcement . . . ,” and pay cuts that have been necessitated by decreasing tax revenues.

As to the loss of revenue that would be seen by such reductions in gas well tax revenues, the letter states that while under the current circumstances of the county “. . . any loss in revenue has a significant impact on the economy of the county,”

a decrease in revenue of this magnitude would be devastating and create great hardship for the county ultimately putting at risk many services provided to the citizens, including but not limited to, the education of our children, police protection, 911 and emergency services, ambulance services, the inability to maintain and repair county buildings, loss of additional jobs in both the education field and county government offices, additional reductions to employee wages and benefits, an inability to provide funding for agencies and organizations that are not constitutionally mandated . . . [,] limit the county’s ability to apply for state and federal grant funds . . . [,] [and] . . . eventually affect the private sector as well, as people leave the county and state to seek gainful employment, further reducing ad valorem taxes, particularly on personal property.”

#### **4. Marion County**

Estimated 2017 gas/oil property tax revenue (from Exhibit A): **\$3, 113,505**

April 30, 2018 email from Kris Cinalli, Marion County Administrator

#### **Selected Excerpts from the April 30, 2018, Marion County email**

“ I fear that Marion County would lose invaluable revenues that could impact our county’s operating capital. If this decision impacts the General Fund Revenue, it would be very detrimental

to our county and our ability to operate on a day-to-day basis without increasing taxes somewhere to make up for the shortfall.”

**5. Marshall County**

Estimated 2017 gas/oil property tax revenue (from Exhibit A): **\$10,240,452**

April 27, 2018 email from Jan Pest, Marshall County Clerk

**Selected Excerpts from the April 27, 2018, Marshall County email**

If all companies were assessed by the method advocated by the companies, “we estimate the loss in tax revenue would be \$2,000,000 County; \$6,000,000 BOE, based on what is currently on the books. Anything new would be assessed by the new method.”

**6. Richie County**

Estimated 2017 gas/oil property tax revenue (from Exhibit A): **\$5,871,130**

May 1, 2018, email from Arlene Mossor, Richie County Assessor

**Selected Excerpts from the May 1, 2018, Richie County email**

“ . . . [I]f the decision of the business court stands . . . they [the county commission] would not be able to go ahead with the purchase of a building for the family court. They are not certain what it would do in future years.

**7. Tyler County**

Estimated 2017 gas/oil property tax revenue (from Exhibit A): **\$5,035,094**

Undated memorandum from Jackson L. Hayes, Assessor of Tyler County, filed as Exhibit C to this brief.

### **Selected Excerpts from the Tyler County memorandum**

The Tyler County memorandum was described as one “. . . addressing the issue of equity and fairness in oil and gas appraisals.” The memorandum describes the process used “early in the gas boom” by which “the oil and gas companies and the state tax department” developed a methodology for appraising gas wells, and noted the increase later in the process of the “base amount of deduction” from \$150,000 to \$175,000. The memorandum notes the writer’s belief that “. . . if you give unlimited deductions you take away the incentive for companies to improve their operations therefore lowering deductions” and that companies instead “. . . continue to increase their deductions amounts to guarantee their profits at the expense of others. Not goal oriented.”

As to the gas company deductions, the Tyler County memorandum notes that “companies take these deductions prior to their appraisal and also take deductions from the royalty owner’s checks, thereby taking from the tax payers twice.”

As to the effect of the subject loss of tax revenue on Tyler County, Assessor Hayes states that “[s]chool systems budgets will be reduced,” that there would be a cut in county projects that would include cuts to infrastructure items and funding to “[t]hings that have needed funding for years and that the grant system has failed,” noting in particular that “Fire and EMS have been over-burdened with Well associated accidents” that have put “extra cost on the county.” The memorandum notes that several projects now in the evaluation stage “would be scrapped, budgets of all county entities adjusted/lowered, making for a stagnant operation at the county level and no improvement to the overall economy.” The memorandum also describes some of the negative effects of the gas industry on some residential real estate values and states that “If we don’t have monies for infrastructure, we lose revenue from loss of people (lower tax base).



## **8. Wetzel County**

Estimated 2017 gas/oil property tax revenue (from Exhibit A): **\$15,138,399**

May 4, 2018, letter from Lawrence P. Lemon, President, Wetzel County Commission, filed as Exhibit D to this brief.

May 7, 2018, letter from Jeff Lancaster, Chief Business Official, Wetzel County Schools, filed as Exhibit E to this brief.

### **Selected Excerpts from the May 4, 2018, Wetzel County Commission letter**

The Wetzel County Commission letter noted that, according to the calculations of the Wetzel County Assessor, the county could “. . . potentially lose \$2,721,800 in ad valorem taxation revenue . . .” if the Antero decision is upheld by this Court. That loss in revenue was described in the letter as “. . . detrimental to the Wetzel County Commission’s budget.” The letter noted that

As a result of such a drastic change in revenue, we will have to make budget cuts to the constitutional offices in Wetzel County. These budget constraints will cause a negative impact on law enforcement needs in Wetzel County. The likelihood exists that the Wetzel County may have to decrease personnel within the office. The impact will be severe in Wetzel County as it relates to law enforcement. Wetzel County has already lost their West Virginia State Police Detachment in Hundred WV.

The Wetzel County letter then describes the negative impact of such budget cuts on the Office of the Wetzel County Prosecuting Attorney, on the level of technology and customer services in the county, and on staffing levels of the offices of the Assessor and the County Clerk. The Commission letter then notes that “. . . if our budget declines by the referenced dollar amount, we could be in the financial position to not be able to provide the continued support we have given in the past . . .” to the nine volunteer fire companies and four Emergency Medical Services stations in Wetzel County.

The Wetzel County Commission letter closes as follows:

We plead with the Honorable Justices to examine the record and detrimental impact this ruling may have on Wetzel County and other producing oil and gas counties.

**Selected Excerpts from the May 7, 2018, Wetzel County Schools letter**

The Wetzel County Schools letter notes that

... [b]ased on the numbers given me by the Wetzel County assessor, the decline in Class III Personal Property would result in an annual decrease to our Excess Levy collections of approximately \$4,108,294. In addition, our regular levy revenues would go down by roughly \$3.5 million which would result in the state picking up that portion of the loss in revenue in the state school funding formula.

The letter notes that “[t]he estimated \$4 million loss in Excess Levy collections would require major changes to our school system.” As to the levy revenue, the letter states that

Our levy provides instructional materials, technology allocations, capital improvements to our school buildings, funding for our academic and athletic trips, physical and occupational therapy for our special education students, funding for four public libraries, maintenance of our school bus fleet, assistance to feed all our students breakfast and lunch, an ACT preparation and incentive plan, and school resources’ officers in all attendance areas. All or most of these items above would suffer if we were to see an annual \$4 million decrease in revenue.

The Wetzel Schools letter also notes the potential impact on educational personnel pay scales by such a decrease in revenue. The letter notes that Wetzel County “... recently increased its salary and benefits package to be more competitive...” and that “If our revenue were to drop, it is highly unlikely that we would be able to maintain those salary package increases, and many of our employees would be looking for another job elsewhere.” The letter notes that “Ultimately, the big loser in this situation would be Wetzel County students.”

The Wetzel Schools letter concludes with a request that the Honorable Justices of this Court examine the “. . . detrimental impact this ruling may have on Wetzel County and other producing oil and gas counties.

**9. Wyoming County**

Estimated 2017 gas/oil property tax revenue (from Exhibit A): **\$1,110,703**

May 2, 2018, letter from Jewell L. Aguilar, Wyoming County Clerk, filed as Exhibit F to this brief.

**Selected Excerpts from the May 2, 2018, Wyoming County letter**

The Wyoming County letter states that it “. . . it appears that the counties in our state are likely to lose fifty-percent of our revenue if this decision stands,” and notes that “ A loss of over one-half million dollars to Wyoming County would in fact be more devastation from the oil and gas industry that has decimated our county since 2011.” The letter notes that

Wyoming County government has already made as many cuts as possible due to the downfall of the economy in Southern West Virginia. Wyoming County can no longer help provide funding for outside agencies and community organizations as they did in years past. We currently struggle to balance our budget while providing quality services to the residents of this county. If this decision is not overturned, the decrease in revenue could certainly adversely affect the operation of our constitutional offices in Wyoming County, possibly resulting in loss of jobs and services.

**VII. CONCLUSION**

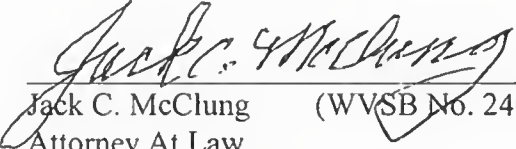
Based on the matters and arguments presented herein and other matters of record, the ORDER REVERSING THE DECISIONS OF THE DODDRIDGE COUNTY BOARD OF EQUALIZATION AND REVIEW AND THE DODDRIDGE COUNTY BOARD OF

ASSESSMENT APPEALS UPHOLDING THE VALUATION OF ANTERO'S GAS WELLS FOR THE 2016 AND 2017 TAX YEARS issued by the Circuit Court of Doddridge County, Business Decision, on January 17, 2018, should be reversed and the appeal of the Petitioners Dale W. Steager, West Virginia State Tax Commissioner, and David Sponaugle, Assessor of Doddridge County, should be granted.

Respectfully Submitted,

Amicus West Virginia Association Of County Officials, Inc.

By counsel:

  
\_\_\_\_\_  
Jack C. McClung (WVSB No. 2403)  
Attorney At Law  
2026 Kanawha Boulevard, East  
Charleston, WV 25311  
(304) 346-0591

**EXHIBITS A - F**





Dave Hardy  
Secretary of Revenue

STATE TAX DEPARTMENT

Dale W. Steager  
State Tax Commissioner

April 12, 2018

TO ALL COUNTY ASSESSORS  
STATE OF WEST VIRGINIA

Dear Assessors:

Re: Oil & Gas Valuations

The mass appraisal methodology for valuing producing gas wells for property tax purposes is set forth in Legislative Rule 110 CSR Series 1J. As one of the valuation variables set forth in the Rule, the State Tax Department, Property Tax Division, annually calculates Average Annual Industry Operating Expenses in compliance with general authority set forth in 110-1J4.3<sup>1</sup> of the Rule. After assembling surveyed data, pursuant to the Legislative Rule, operating expense limitations are imposed annually by issuing an Administrative Notice which is published in the State Register. For the 2017 tax year, the limitations were as follows:

"Direct ordinary operating expenses will be estimated to be 45% of the gross receipts derived from gas production, not to exceed \$5,000, 35% of gross receipts derived from oil production, not to exceed \$5,750, and 35% of the gross receipts derived from enhanced recovery oil wells, not to exceed \$9,000. In 2014, the Tax Department also received responses from a survey specifically for Marcellus and horizontal wells other than Marcellus. Utilizing that information, the Tax Department developed the following criteria for Marcellus wells and horizontal other than Marcellus wells. For Marcellus vertical wells, the maximum operating expenses allowed is 30% of the gross receipts derived from gas production, not to exceed \$30,000. For Marcellus horizontal wells the maximum operating expense allowed is 20% of the gross receipts derived from gas production, not to exceed \$175,000. For horizontal, other than Marcellus, the maximum operating expenses allowed is 30% not to exceed \$20,000".<sup>2</sup>

<sup>1</sup> 4.4. Average industry production decline rates. -- The Tax Commissioner shall every five (5) years derive and report the average industry production decline rates by reviewing well production records of various State agencies along with data provided by companies and individuals.

<sup>2</sup> Administrative Notice 2017-08, Property Tax State Tax Commissioner's Statement for the Determination of Oil and Gas Operating Expenses for Property Tax Purposes for Tax Year 2017, Pursuant to 110 CSR 1J-4.3, Issued January 26, 2017.

TO ALL COUNTY ASSESSORS  
STATE OF WEST VIRGINIA  
April 12, 2018  
Page Two

The "not to exceed" provision in the valuation methodology (also commonly referred to as the "cap") was deemed to result in unequal and non-uniform taxation for both traditional and Marcellus wells in several recent Orders issued by Judge Wilkes of the West Virginia Business Court. The State Tax Department has appealed these Orders to the West Virginia Supreme Court of Appeals.

The Administrative Notice for the 2018 tax year was issued January 30, 2018 and provides identical operating expense limitations (ADMINSTRATIVE NOTICE 2018-08).

This likely will be a contentious issue before the County Commissions (sitting as Boards of Assessment Appeals) in October of this year. The State Tax Department will vigorously defend its operating expense allowance; however, significant tax dollars will likely be at stake in oil and gas producing counties. While the Department has not determined the exact amount of exposure, it is estimated that the tax dollars in issue could be approximately 50% of the producing oil and gas property taxes in some counties. Attached for your review is a listing of the estimated producing oil and gas taxes for Tax Year 2017.

Should you have questions or need additional information concerning this matter, please contact Cindi Hoover at 304-558-3940 or [Cindi.R.Hoover@wv.gov](mailto:Cindi.R.Hoover@wv.gov).

Sincerely,



Jeff Amburgey  
Director

Property Tax Division

JA/aj

Attachment

cc: Cindi Hoover, Tax & Revenue Manager  
Property Tax Division

# Producing Oil & Gas Taxes Tax Year 2017

	Producing Taxes
BARBOUR	824,297
BERKELEY	0
BOONE	840,610
BRAXTON	110,965
BROOKE	2,406,962
CABELL	179,288
CALHOUN	338,643
CLAY	254,461
DODDRIDGE	15,065,314
FAYETTE	141,298
GILMER	454,829
GRANT	90
GREENBRIER	26
HAMPSHIRE	703
HANCOCK	0
HARDY	0
HARRISON	8,644,680
JACKSON	648,367
JEFFERSON	0
KANAWHA	2,141,580
LEWIS	778,221
LINCOLN	1,326,519
LOGAN	1,606,390
MARION	3,113,505
MARSHALL	10,240,452
MASON	74,127
MCDOWELL	2,038,400
MERCER	97,023
MINERAL	156
MINGO	1,394,597
MONONGALIA	675,889
MONROE	0
MORGAN	74
NICHOLAS	51,748
OHIO	7,099,936
PENDLETON	8,858
PLEASANTS	114,260
POCAHONTAS	22
PRESTON	141,619
PUTNAM	557,416
RALEIGH	685,837
RANDOLPH	74,279
RITCHIE	5,871,130
ROANE	484,533
SUMMERS	685
TAYLOR	1,214,464
TUCKER	17,280
TYLER	5,085,984
UPSHUR	729,729
WAYNE	838,656
WEBSTER	755
WETZEL	15,138,399
WIRT	100,852
WOOD	129,772
WYOMING	1,110,703
	92,814,384

Disclaimer: The tax totals are estimated using county average tax rates. Additionally the estimated taxes are based upon final values after February appeals but would not take into account any exonerations or October 2017 hearings.

Gordon O. Lambert  
President

Michael D. Brooks  
Commissioner

Cecil D. Patterson  
Commissioner

# **McDowell County Commission**

**109 Wyoming Street**

**Welch, West Virginia 24801**

**Phone: (304) 436-8548 Fax: (304)-436-8572**

Edward Kornish  
Prosecuting Attorney

Donald L. Hicks  
County Clerk

Jennifer Hopkins-Wimmer  
County Administrator

May 4, 2018

Mr. Jack McClung, Legal Counsel  
WV Association of Counties  
2026 Kanawha Boulevard, East  
Charleston, WV 25311

Dear Mr. McClung

This correspondence is in reference to ad valorem tax valuations on oil and gas wells in McDowell County. It is our understanding that the WV Supreme Court has ruled these values to be inaccurate or otherwise invalid. Our records indicate that the valuations of \$2,038,400.00 reported by the state are in fact accurate and valid. If the WV Supreme Court ruling is allowed to stand, McDowell County would loose in excess of one million dollars each year. In addition McDowell County stands to lose approximately \$100,000.00 in additional ad volarem taxes as a result of Northfork and Southern Railway removing its equipment from the county as well as a continual loss of revenue resulting from a declining population. McDowell County, is one of the most economically depressed counties in the state, and the nation as a whole, and has been declared by the Appalachian Regional Commission as a distressed county for several years running. The County has been under a spending freeze for approximately three years, with only the necessary supplies and equipment purchased and urgent repairs to equipment and buildings being completed. In addition staff has been reduced significantly in virtually every office, including law enforcement, and the remaining employees have taken a 10% pay cut, which has only recently been restored temporarily based upon a month-to-month re-evaluation of county finances.

Consequently, any loss of income has a significant impact on the economy of the county, but a decrease in revenue of this magnitude would be devastating and create great hardship for the county ultimately putting at risk many services provided to the citizens. including but not limited to, the education of our children, police protection, 911 and emergency services, ambulance service, the inability to maintain and repair county buildings, loss of additional jobs in both the education industry and county government offices, additional reductions to employee wages and benefits, an inability to provide funding for agencies and organizations which are not constitutionally mandated. Furthermore, the loss of income would limit the counties ability to apply for state and federal grant funds as the county would be unable to provide the required cost share matches. Eventually, the loss of services and jobs would affect the private sector as well, as people leave the county and state to seek gainful employment, further reducing ad valorem taxes, particularly on personal property.



Sincerely/

A handwritten signature in cursive script, appearing to read "Michael D. Brooks". The signature is written in dark ink and is positioned below the word "Sincerely/".

Michael D. Brooks, Commissioner  
McDowell County Commission



Sincerely/

A handwritten signature in black ink, appearing to read "Michael D. Brooks". The signature is written in a cursive style with a large initial "M" and a stylized "B".

Michael D. Brooks, Commissioner  
McDowell County Commission



**JACKSON L. HAYES  
ASSESSOR OF TYLER COUNTY**

P.O. BOX 2  
Middlebourne, WV 26149  
(304) 758-4781

To Whom It May Concern:

I am addressing the issue of equity and fairness in oil and gas appraisals.

After setting down with oil and gas companies and the state tax department early in the gas boom a methodology was developed for appraising these wells. Later in the process the base amount of deduction was evaluated and increased, to the current \$175,000.00 cap per well.

I believe if you give unlimited deductions you take away the incentive for companies to improve their overall operation therefore lowering deductions. They continue to increase their deductions amounts to guarantee their profits at the expense of others. Not goal oriented.

Also companies take these deductions prior to their appraisalment and also take deductions from the royalty owner's checks, therefore taking from the tax payers twice.

Things this would effect in Tyler County:

1. School system budgets will be reduced, possible lowering their budget monies to the point they would apply for State assistance, where is that money to come from? We could barely make a 5% pay raise increase to school teachers. Do you want counties to be in this situation also?
2. Cut in County projects: infrastructure items: water, broadband, upgrades to county properties, annex, parking for county and court, funding of ambulance, fire, and school levies, upkeep to fair grounds and 4H camp, library's. Things that have needed funding for years and that the grant system has failed. Fire and EMS have been over burdened with Well associated accidents extra cost on county.
3. As people sell out to oil companies, then our people leave. We need to develop lands for living, farming, tourisms, etc. Some housing has lost value because of pipeline, compressing stations, and wells being positioned by their homes, Realty companies can't sell them and won't list them because of liability. If we don't have monies for infrastructure, we lose revenue from loss of people (lower tax base).
4. Several projects are in the valuation stage these would be scrapped, budgets of all county entities adjusted/ lowered, making for a stagnant operation at the county level and no improvement to the overall economy.

Thanks, *Jackson L Hayes*, Tyler County Assessor

**Exhibit D****WETZEL COUNTY COMMISSION**  
NEW MARTINSVILLE, WV 26155**CAROL S. HAUGHT**  
COUNTY CLERK**LAWRENCE P. LEMON, PRESIDENT**  
NEW MARTINSVILLE, WV 26155**LISA L. HEASLEY, VICE-PRESIDENT**  
NEW MARTINSVILLE, WV 26155**ROBERT L. GORBY, COMMISSIONER**  
NEW MARTINSVILLE, WV 26155**P.O. BOX 156**  
NEW MARTINSVILLE, WV  
26155**SESSIONS:**  
1<sup>ST</sup> TUES JAN  
1<sup>ST</sup> TUES APR  
3<sup>RD</sup> TUES JUL  
1<sup>ST</sup> TUES OCT**TELEPHONE:**  
(304) 455-8224  
**FAX:**  
(304) 455-5256

May 4, 2018

West Virginia Association of Counties  
C/O: Mr. Jonathan Adler, Executive Director  
2026 Kanawha Blvd E  
Charleston WV 25311RE: Third Judicial Circuit  
Steagerv. Antero Resources Case No. 18-0125

Ladies and Gentlemen:

We asked our assessor, Scott Lemley, to calculate the potential impact the change in valuation that will occur in the event the West Virginia Supreme Court Justices uphold the ruling from the Third Judicial Circuit (Steager v. Antero Resources Case No. 18-0125). The levy page for the regular expense levy for 2018-2019 had a total valuation for Class III Personal Property at \$951,678,337. With the potential change in valuation, Mr. Lemley calculated the potential assessed valuation for the 2019-2020 estimated at \$475,839,168. According to current levy rates, our revenue could potentially change from \$5,443,600 to \$2,721,800. This is the revenue calculated from Class III Personal Property Valuation.

As the numbers reflect, we could potentially lose \$2,721,800 in ad valorem taxation revenue from Class III Personal Property. This loss in revenue will be detrimental to the Wetzel County Commission's budget. As a result of such a drastic change in revenue, we will have to make budget cuts to the constitutional offices in Wetzel County. These budget constraints will cause a negative impact on law enforcement needs in Wetzel County. The likelihood exists that the Wetzel County Sheriff's Department may have to decrease personnel within the office. The impact will be severe in Wetzel County as it relates to law enforcement. Wetzel County has already lost their West Virginia State Police Detachment in Hundred WV.

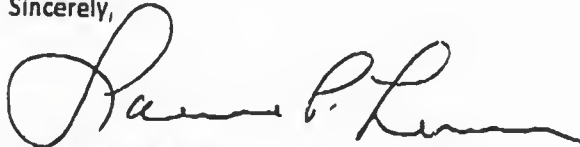
The Wetzel County Prosecutor's Office will have to prosecute crimes with less resources. As the case load increases concerning criminal acts in Wetzel County, the prosecutor will have to perform more duties with, potentially, less employees and the needed resources to effectively prosecute criminal cases in Wetzel County. We know the stress and workload could have a detrimental impact on the

Wetzel County Prosecutor's Office. The Wetzel County Circuit Clerk's Office's budget could potentially decrease; as a result, this will have an impact on the court proceedings in Wetzel County. The Commission has been in discussion concerning employing at least three individuals for Wetzel County Courthouse and Magistrate Court security. These new positions will require additional funding from the Commission's budget.

Several of our offices have advanced in technology in regard to offering more information and resources online. As a result, we have better served our communities by offering many of the Wetzel County Clerk's documents online, as well as documents and maps of the Wetzel County Assessor's Office. With the advances in technology, we have to maintain this software and other hardware on an annual basis. If the budget is drastically decreased, the potential exists where we will not be able to continue providing the level of customer service we are currently providing our citizens and taxpayers. The assessor's office and the county clerk's office may have to reduce staff.

Finally, the Wetzel County Commission has been financially supporting all nine volunteer fire companies in our County, and we have been financially supporting our Wetzel County Emergency Medical Service (EMS). Our Wetzel County EMS has four stations in our County. If our budget declines by the above referenced dollar amount, we could be in the financial position not to be able to provide the continued support we have given in the past. We plead with the Honorable Justices to examine the record and detrimental impact this ruling may have on Wetzel County and other producing oil and gas counties.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence P. Lemon". The signature is fluid and cursive, with a large initial "L" and "P".

Lawrence P. Lemon

Wetzel County Commission President

## WETZEL COUNTY SCHOOLS

333 Foundry Street  
New Martinsville, W.Va. 26155  
Telephone (304) 455-2441  
Fax No. (304) 455-3446



May 7, 2018

West Virginia Association of Counties  
C/O: Mr. Jonathan Adler, Executive Director  
2026 Kanawha Blvd E  
Charleston WV 25311

RE: Third Judicial Circuit  
Steager v. Antero Resources Case No. 18-0125

Ladies and Gentlemen:

I have been asked to calculate the potential impact the change in valuation that will occur in the event the West Virginia Supreme Court Justices uphold the ruling from the Third Judicial Circuit (Steager v. Antero Resources Case No. 18-0125). The impact on Wetzel County Schools would be quite substantial. Based on the numbers given to me by the Wetzel County assessor, the decline in Class III Personal Property would result in an annual decrease to our Excess Levy collections of approximately \$4,108,294. In addition, our regular levy revenues would go down by roughly \$3.5 million which would result in the state picking up that portion of the loss in revenue in the state school funding formula.

The estimated \$4 million loss in Excess Levy collections would require major changes to our school system. In December of 2017, the voters in Wetzel County overwhelmingly passed our Excess Levy with 89.5% of the voters voting for the levy. I believe that the major reason for the high percentage is that our voters want to keep our small schools, and there is no way this would be possible in Wetzel without the Excess Levy and the oil and gas boom in our area. In fact, a plan was moving forward to close Paden City High School right before the Marcellus boom hit Wetzel County and changed our financial situation.

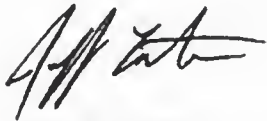
Our levy provides instructional materials, technology allocations, capital improvements to our school buildings, funding for academic and athletic trips, physical and occupational therapy for our special education students, funding for four public libraries, maintenance of our school bus fleet, assistance to feed all students breakfast and lunch, an ACT preparation and incentive plan, and school resource officers in all attendance areas. All or most of these items above would suffer if we were to see an annual \$4 million decrease in revenue.



In addition, we have relied on the stream of oil and gas revenue in Wetzel to attract employees to our area. We have consistently been on the low end of the pay scale compared to most of our neighboring counties and thus have lost employees to those counties. Based on the trend in revenue, Wetzel has recently increased its salary and benefits package to be more competitive, and families have moved here for employment. If our revenue were to drop, it is highly unlikely that we would be able to maintain those salary package increases, and many of our employees would be looking for another job elsewhere. Ultimately, the big loser in this situation would be Wetzel County students.

We plead with the Honorable Justices to examine the record and detrimental impact this ruling may have on Wetzel County and other producing oil and gas counties.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Lancaster', with a stylized flourish at the end.

Jeff Lancaster

Chief School Business Official, Wetzel County Schools

# Wyoming County Commission

P.O. Box 309  
Pineville, WV 24874  
Telephone 304-732-0007  
ext 301  
Fax 304-732-6603

*"Serving the citizens of Wyoming County"*

Jewell L. Aguilar  
County Clerk  
Telephone 304-732-8000  
Fax 304-732-9659



*Jason Mullins*  
*Commissioner*

*Silas Mullins, Jr.*  
*President*

*Dr. Samuel Muscari, Sr.*  
*Commissioner*

May 3, 2018

Mr. Jack McClung, Legal Counsel  
WV Association of Counties  
Charleston, WV 25305

Mr. McClung:

I am sending this correspondence in reference to the ad valorem tax valuation on gas & oil wells in West Virginia. It is my understanding that the WV Supreme Court has ruled that these valuations are invalid or inaccurate. It appears that the counties in our state are likely to lose fifty-percent of this revenue if this decision stands.

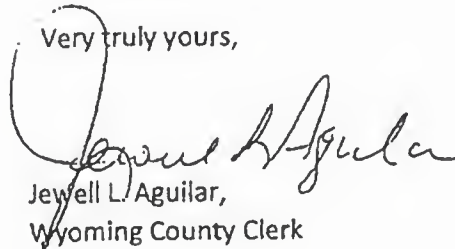
After consulting with our county Assessor, Mike E. Cook, he diligently researched this information and made calculations based on our county ad valorem tax. Our Assessor confirms that the figures reported by the WV State Tax Department of \$1,110,000.00 for estimated revenue on these gas wells are correct. A loss of over one-half million dollars to Wyoming County would in fact be more devastation from the oil & gas industry that has decimated our county since 2011. In tax year 2010, our county had \$588,789,486.00 in appraised property compared to \$52,796,210.00 in tax year 2018. All of this obviously as a result of the Marcellus Shale in the Northern part of West Virginia, as indicated on the attached chart provided by the Assessor's Office. Our school system has already lost many teacher and service personnel positions and yet another decrease in revenue would only cause greater hardship and ultimately our children's educations will suffer.

Wyoming County government has already made as many cuts as possible due to the downfall of the economy in Southern West Virginia. Wyoming County can no longer help provide funding for outside agencies and community organizations as they did in years past. We currently struggle to balance our budget while providing quality services to the residents of this county. If this decision is not overturned,

the decrease in revenue could certainly adversely affect the operation of our constitutional offices in Wyoming County, possibly resulting in loss of jobs and services.

Thank you for your consideration in this matter, any help you can provide to the people of Wyoming County and the State of West Virginia would be greatly appreciated.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Jewell L. Aguilar". The signature is fluid and cursive, with a large initial "J" and "A".

Jewell L. Aguilar,  
Wyoming County Clerk

**IN THE WEST VIRGINIA SUPREME COURT OF APPEALS**

**Dale W. Steager,  
West Virginia State Tax Commissioner, and  
David Sponaule, Assessor of Doddridge County**

**Respondents Below, Petitioners,**

**vs.**

**No. 18-0125**

**Antero Resources Corporation,**

**Petitioner Below, Respondent**

**CERTIFICATE OF SERVICE**

I, Jack C. McClung, counsel for West Virginia Association of County Officials, Inc., hereby certify that a true copy of the foregoing MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE ON BEHALF OF THE WEST VIRGINIA ASSOCIATION OF COUNTY OFFICIALS, INC., and the foregoing AMICUS CURIAE BRIEF ON BEHALF OF THE WEST VIRGINIA ASSOCIATION OF COUNTY OFFICIALS, INC., was served upon counsel of record by depositing a true copy thereof in the United States Mail, first-class postage prepaid, this 23rd day of May, 2018, addressed as follows:

L. Wayne Williams, Esq.  
Assistant Attorney General  
1900 Kanawha Boulevard, East  
Building 1, Room W-435  
Charleston, West Virginia 25305

Counsel for Petitioners West Virginia Tax Commissioner  
and Assessor of Doddridge County

Craig A. Griffith, Esq.  
John J. Meadows, Esq.  
Steptoe & Johnson, PLLC  
P.O. Box 1588  
Charleston, WV 25326-1588

Counsel for Respondent Antero Resources Corporation